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13 *Attorneys for Defendant Students for Justice in Palestine, UNLV*

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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

26 COREY GERWASKI,  
27 Plaintiff,  
28 vs.

29 STATE OF NEVADA, ex rel. BOARD OF  
30 REGENTS of the NEVADA SYSTEM OF  
31 HIGHER EDUCATION, on behalf of the  
32 UNIVERSITY OF NEVADA, LAS VEGAS;  
33 KEITH WHITFIELD, individually; AJP  
34 EDUCATIONAL FOUNDATION INC., a  
35 California Non-Profit Corporation; STUDENTS  
36 FOR JUSTICE OF PALESTINE-UNLV;  
37 NATIONAL STUDENTS FOR JUSTICE OF  
38 PALESTINE; NEVADANS FOR  
39 PALESTINIAN LIBERATION; DOES I-XX  
40 and ROE entities I-XX,

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Defendant Students for Justice in Palestine, University of Nevada, Las Vegas (“Students for Justice in Palestine UNLV” or “SJP UNLV”) moves to dismiss this case pursuant to Federal Rule of Civil Procedure 12(b)(6). Plaintiff has failed to plead sufficient facts to state his claims against SJP UNLV, and as described in his complaint, Plaintiff’s claims against SJP UNLV are barred by the First Amendment.

Dated: March 5, 2025

## ACLU OF NEVADA

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## **MEMORANDUM OF POINTS AND AUTHORITIES**

## I. INTRODUCTION

The “chilling of individual thought and expression,” is a danger “especially real in the in the University setting, where the State acts against a background and tradition of thought and experiment that is at the center of our intellectual and philosophic tradition.” *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 835, 115 S. Ct. 2510, 2520 (1995). If the State discourages a particular viewpoint in such a setting, it “risks the suppression of free speech and creative inquiry in one of the vital centers for the Nation’s intellectual life, its college and university campuses.” *Id.* Yet that is precisely the Plaintiff’s objective in this matter, to weaponize the legal system to have either this Court or his university silence a viewpoint he disagrees with.

Students for Justice in Palestine at the University of Nevada Las Vegas (“SJP UNLV”) is a student group at UNLV that advocates against Israel’s military actions in Palestine. They organize protests on and off campus and post social media messages criticizing Israel’s actions in relation to Palestine. They also petition UNLV administrators to support the Palestinian people by financially divesting from Israel. They have never engaged in violence or vandalism. To their knowledge, they have complied with all university rules and applicable laws while advocating for their beliefs.

Plaintiff, a fellow student at UNLV, clearly disagrees with SJP UNLV’s views on the war in Palestine. However, instead of countering with non-violent, lawful advocacy of his own, Plaintiff has sued SJP UNLV under the federal Anti-Terrorism Act (“ATA”) and Nevada’s common law doctrine of intentional infliction of emotional distress (“IIED”). He bases his claims against SJP UNLV entirely upon the content of the organization’s message, and for relief, he seeks to punish SJP UNLV for holding a viewpoint he disagrees with by demanding that this Court ban SJP UNLV from the UNLV campus and order the organization to pay both compensatory and punitive damages. He has also sued UNLV for fulfilling its obligation under the First Amendment to not engage in viewpoint discrimination on a matter of public importance.

Plaintiff's complaint is fatally flawed for multiple reasons. He fails to explain how he was

1 injured by an act of international terrorism or how SJP UNLV's advocacy aided and abetted such an  
 2 act as required by the ATA. He fails to establish that SJP UNLV's actions were extreme and  
 3 outrageous or that he suffered severe and extreme emotional distress as required for an IIED claim.  
 4 And perhaps most important, Plaintiff's action against SJP UNLV must fail because it seeks to hold  
 5 SJP UNLV liable solely for that organization's viewpoint on a matter of public importance.

6 SJP UNLV respectfully requests that this Court dismiss Plaintiff's claims against the  
 7 organization in their entirety and with prejudice, protecting SJP UNLV's right to publicly advocate  
 8 its beliefs on a matter of public importance as it is entitled to under the United States Constitution.

## 9 **II. FACTS AND PROCEDURAL HISTORY**

10 SJP UNLV is a Registered Student Organization (RSO) on the UNLV campus. *See* Students  
 11 for Justice in Palestine, Organizations, UNLV Involvement Center (last visited March 5, 2025),  
 12 *available at* <https://involvementcenter.unlv.edu/organization/sjp>. The organization is “a diverse  
 13 group of activists and organizers dedicated to advancing the cause for Palestinian justice and  
 14 liberation by organizing community activities, educational events, and advocacy actions to build  
 15 awareness, solidarity, and a network of community organizers.” *Id.* Its constitution, contact  
 16 information, faculty advisor, and student point of contact can be found on UNLV’s website. *Id.* (the  
 17 student point of contact information is available under “Full Roster”).

18 Plaintiff brings two claims against SJP UNLV pursuant to 18 USC § 2333 of the ATA and  
 19 Nevada’s common law doctrine of intentional infliction of emotional distress. First Amended  
 20 Complaint, at ¶¶ 249–266, 363–368. ECF No. 6 (August 9, 2024) (“Amend. Compl.”) To support  
 21 these claims, Plaintiff makes wide-ranging accusations against multiple parties. *See generally id.*  
 22 Parsing through those accusations, Plaintiff offers the following factual allegations against SJP  
 23 UNLV. *Id.*

1                   **A. Factual allegations related to SJP UNLV's conduct**

2                   In his complaint, Plaintiff repeatedly infers that SJP UNLV is part of a broad conspiracy  
3 working on behalf of the terrorist organization Hamas to “wreak havoc” at university campuses across  
4 the country. *See, e.g., id.* at ¶ 34 (“AMP controls NSJP and uses it to operate a propaganda machine  
5 for Hamas and its affiliates across American college campuses to influence, wreak havoc and  
6 intimidate Jewish students on university campuses across the Nation.”). However, Plaintiff’s  
7 allegations regarding what SJP UNLV in fact did are narrower.

8                   Plaintiff alleges that SJP UNLV’s constitution calls for a one state solution with that state  
9 being under Palestinian control. *Id.* ¶ 33. It is Plaintiff’s opinion that this statement demonstrates SJP  
10 UNLV’s “genocidal intent” but does not allege that SJP UNLV directly advocates for violence in its  
11 constitution. *Id.*

12                  Plaintiff alleges that SJP UNLV has posted on social media. Among the posts cited in  
13 Plaintiff’s complaint are advertisements for protests on UNLV’s campus, descriptions of SJP  
14 UNLV’s mission as an organization, statements related to that mission such as “UNLV you will see  
15 Palestine will be free,” and an announcement about a National Students for Justice in Palestine  
16 (“NSJP”) program “Popular University for Gaza Campaign”. *Id.* ¶¶ 42, 59, 102, 186. Other posts  
17 from SJP UNLV included in Plaintiff’s complaint petition UNLV to financially divest from Israel  
18 and called for economic boycotts to support Palestine. *Id.* ¶¶ 97, 101, 114, 189, 192, 198. None of  
19 SJP UNLV’s posts cited by Plaintiff advocate for violence or refer to Hamas.

20                  Beyond the social media posts, Plaintiff alleges that SJP UNLV coordinated off and on  
21 campus protests with other local advocacy groups including Nevadans for Palestinian Liberation, the  
22 Fifth Sun Project, and Red Desert Collective. *Id.* ¶¶ 73–74. Plaintiff does not allege that Hamas  
23 contacted SJP UNLV or vice versa; rather Plaintiff alleges that SJP UNLV “takes instruction” from  
24 the National Students for Justice in Palestine (“NSJP”) to engage in “antisemitic protests” on UNLV’s  
25

1 campus. *Id.* ¶ 75. Plaintiff alleges that SJP UNLV has “incorporated” local advocacy groups to “join  
 2 ‘the resistance’” and insinuates that this “resistance” is violent, but he does not allege that SJP UNLV  
 3 engaged in any violent activity. *Id.* ¶¶ 78–79. Instead, Plaintiff alleges that SJP UNLV organized  
 4 actions where protesters chanted the phrases “From the river to the sea, Palestine will be free” and  
 5 “Long live the intifada”, which Plaintiff considers to be rhetoric espousing violence against Israel.  
 6 *Id.* ¶ 191.

7 Finally, Plaintiff alleges that SJP UNLV met in press with UNLV’s president to petition for  
 8 the university to financially divest from Israel and discuss the safety of people participating in the  
 9 organization’s protests. *Id.* ¶¶ 194–95. Plaintiff does not allege that SJP UNLV threatened, harassed,  
 10 or otherwise acted inappropriately while meeting with the president. Instead, he expresses anger that  
 11 the UNLV’s president would meet with SJP UNLV at all and that the SJP UNLV should expect to  
 12 protest safely considering their message. *Id.* at ¶¶ 194, 196.

13 Plaintiff does not allege he ever contacted SJP UNLV or vice versa, witnessed the  
 14 organization’s protests, viewed its social media, or otherwise interacted with SJP UNLV in any way.  
 15 *See generally id.* According to his complaint, the only protest group Plaintiff interacted with was  
 16 “Nevada Palestine Liberation”. *Id.* ¶¶ 245–246. Nowhere in his complaint does Plaintiff allege that  
 17 SJP UNLV took any action, lawful or otherwise, prior to October 7, 2023, let alone that the  
 18 organization aided Hamas in its attack on that day. *See generally id.*

19 **B. Factual allegations related to Plaintiff’s injuries or lack thereof.**

20 In describing his claim pursuant to 18 USC § 2333 of the ATA, Plaintiff states he “has been  
 21 injured in their persons [sic] because of Hamas’s acts of international terrorism” but otherwise does  
 22 not describe his injury or how it relates to a specific act of international terrorism committed by  
 23 Hamas. *Id.* ¶ 265. The October 7, 2023, attack on Israel by Hamas is the only specific act of terrorism  
 24 described in Plaintiff’s complaint. *Id.* ¶¶ 153–54. He does not claim that he has a personal connection  
 25

1 to that attack. *See generally id.*

2 In describing his claim for intentional infliction of emotional distress, Plaintiff claims to suffer  
 3 “severe and extreme emotional distress manifested as great humiliation, embarrassment, shame, and  
 4 other pain.” *Id.* ¶ 365. He does not provide any other information to clarify why those emotions  
 5 qualify as severe and extreme emotional distress such as physical symptoms, related medical  
 6 treatment, or a psychiatric diagnosis.

7 **C. Procedural posture**

8 Plaintiff filed this action on May 26, 2024. ECF No. 1. This Court issued summonses on May  
 9 28, 2024. ECF No. 4. Plaintiff amended his complaint on August 9, 2024. ECF No. 6. Plaintiff served  
 10 SJP UNLV the summons and First Amended Complaint on February 12, 2025. ECF No. 48. SJP  
 11 UNLV now files this timely motion to dismiss.

12 **III. LEGAL STANDARD**

13 To avoid dismissal pursuant to Rule 12(b)(6), a plaintiff must make sufficient factual  
 14 allegations to establish a plausible entitlement to belief. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544,  
 15 556, 127 S. Ct. 1955 (2007). “In assessing whether a party has stated a claim upon which relief can  
 16 be granted, a court must take all allegations of material fact as true and construe them in the light  
 17 most favorable to the nonmoving party.” *Kwan v. SanMedica Int'l*, 854 F.3d 1088, 1096 (9th Cir.  
 18 2017). “[C]onclusory allegations of law and unwarranted inferences, however, are insufficient to  
 19 avoid dismissal.” *Id.* As such “allegations must amount to ‘more than labels and conclusions, [or] a  
 20 formulaic recitation of the elements of a cause of action.’” *Coleman v. Telles*, No. 2:24-cv-00930-  
 21 APG-MDC, 2025 U.S. Dist. LEXIS 21413, at \*3 (D. Nev. Feb. 5, 2025) (quoting *Bell Atl. Corp.*,  
 22 550 U.S. at 556).

23 After separating out any well-plead factual allegations from plaintiff’s legal conclusions and  
 24 unwarranted inferences, the Court must then determine “whether [the factual allegations] plausibly

1 give rise to an entitlement to relief." *Kwan*, 854 F.3d at 1096. "This plausibility standard requires  
 2 more than a sheer possibility that a defendant has acted unlawfully"; rather "[a] claim has facial  
 3 plausibility when the plaintiff pleads content that allows the court to draw the reasonable inference  
 4 that the defendant is liable for the misconduct alleged." *Id.*

5 **IV. ARGUMENT**

6 Plaintiff raises claims against SJP UNLV under the ATA and Nevada's IIED doctrine. Both  
 7 of Plaintiff's claims are barred by the First Amendment as they are premised on the content of SJP  
 8 UNLV's speech on a matter of public interest. Plaintiff's IIED claim must be dismissed because  
 9 Plaintiff fails to establish that he suffered extreme and severe emotional distress, that SJP UNLV  
 10 actions were extreme or outrageous, or that SJP UNLV intended to cause Plaintiff distress. Finally,  
 11 Plaintiff's ATA claim must be dismissed because he fails to adequately allege an injury caused by an  
 12 act of international terrorism or that SJP UNLV aided and abetted such an act.

13 **A. Plaintiff's claims against SJP UNLV are barred by the First Amendment.**

14 The First Amendment can serve as a defense in tort suits; whether the Free Speech Clause  
 15 shields a defendant "turns largely on whether [the defendant's] speech is of public or private  
 16 concern." *Snyder v. Phelps*, 562 U.S. 443, 451, 131 S. Ct. 1207, 1215 (2011).

17 As the Supreme Court observed in *Snyder v. Phelps*, "[t]he First Amendment reflects a  
 18 profound national commitment to the principle that debate on public issues should be uninhibited,  
 19 robust, and wide-open." 562 U.S. at 452. Because "speech concerning public affairs [. . .] is the  
 20 essence of self-government," it "occupies the highest rung of the hierarchy of First Amendment  
 21 values, and is entitled to special protection." *Id.* (quotation omitted). "Speech deals with matters of  
 22 public concern," and so entitled to special protection, "when it can be fairly considered as relating to  
 23 any matter of political, social, or other concern to the community, or when it is a subject of legitimate  
 24 news interest; that is, a subject of general interest and of value and concern to the public." *Id.* at 453

25

1 (quotations omitted). Whether expressive conduct is “inappropriate or controversial [...] is irrelevant  
 2 to the question whether it deals with a matter of public concern.” *Id.* If a plaintiff seeks to hold a  
 3 defendant liable for the content of speech related to a matter public concern rather than that “of purely  
 4 private significance,” the plaintiff’s claims are barred by the First Amendment. *Id.*, 56 U.S. at 460–  
 5 61 (barring the plaintiff’s claims of intentional infliction of emotional distress and civil conspiracy as  
 6 they were based entirely upon content of the defendant’s speech related to a matter of public concern).

7 Plaintiff’s claims against SJP UNLV are premised exclusively upon SJP UNLV’s speech  
 8 about the war in Palestine. Plaintiff claims he has been harmed by (1) non-violent protests organized  
 9 by SJP UNLV on and off campus advocating a pro Palestine position related to that war, (2) SJP  
 10 UNLV’s association with other advocacy groups to protest Israel’s actions during the war, (3) SJP  
 11 UNLV’s petitions to a state-run university to divest from Israel due to that country’s actions during  
 12 the war, and (4) SJP UNLV’s social media posts criticizing the war and calling for economic boycotts.  
 13 These are activities entitled to the strongest protections under the First Amendment. *Carey v. Brown*,  
 14 447 U.S. 455, 466–67, 100 S. Ct. 2286, 2293 (1980) (“Public-issue picketing, an exercise of . . . basic  
 15 constitutional rights in their most pristine and classic form, has always rested on the highest rung of  
 16 the hierarchy of First Amendment values.” (ellipsis in the original)); *Roberts v. United States Jaycees*,  
 17 468 U.S. 609, 622, 104 S. Ct. 3244, 3252 (1984) (“[W]e have long understood as implicit in the right  
 18 to engage in activities protected by the First Amendment a corresponding right to associate with  
 19 others in pursuit of a wide variety of political, social, economic, educational, religious, and cultural  
 20 ends.”); *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 911 (1982) (finding “[t]he established  
 21 elements of speech, assembly, association, and petition” inseparable from the right to organize a non-  
 22 violent economic boycott to serve a political purpose).

23 SJP UNLV engaged in all these activities in relation to a matter of public concern as all were  
 24 about the war in Gaza. Plaintiff cannot meaningfully dispute that the war in Gaza is a matter of public  
 25

1 concern, dividing the American public, impacting American politics, and filling American news  
 2 coverage. *See, e.g.*, Shibley Telhami, *Is the Israel-Gaza war changing US public attitudes*, Brookings  
 3 Institute (November 2, 2023) (discussing the American public's response to Israel's intervention in  
 4 Gaza and the potential impact on the 2024 presidential election), available at  
 5 <https://www.brookings.edu/articles/is-the-israel-gaza-war-changing-us-public-attitudes/>; Nathan J.  
 6 Brown, *The Polarization of U.S. Campus Protests*, Carnegie Endowment for International Peace (May  
 7 6, 2024) (discussing the protests over Israeli's actions in Gaza and public response to those protests),  
 8 available at <https://carnegieendowment.org/emissary/2024/05/the-polarization-of-us-campus-protests?lang=en>. In fact, his own claims depend on it, with his complaint emphasizing widespread  
 9 protests across the country related to the conflict. *See* Amend. Cmpl. ¶ 113 (alleging that protests  
 10 related to the conflict "erupted across American cities").

12 And Plaintiff cannot dispute that his claims against SJP UNLV are based entirely upon the  
 13 organization's views on to the Palestinian conflict. *See Snyder*, 562 U.S. at 457 (emphasizing that  
 14 "that any distress occasioned by [the defendant]'s picketing turned on the content and viewpoint of  
 15 the message conveyed" in determining that the First Amendment barred plaintiff's claims). Plaintiff's  
 16 claims are based upon the content of SJP UNLV's message, specifically that the message's viewpoint  
 17 is antisemitic and, by advocating against Israel's actions in Gaza, assists Hamas. After all, if SJP  
 18 UNLV engaged in the exact same conduct (i.e. organizing protests, petitioning UNLV, and calling  
 19 for boycotts) in favor of Israel rather than Palestine, Plaintiff would not be asking this Court to ban  
 20 SJP UNLV from campus or demanding damages. *See Snyder*, 562 U.S. at 457 (considering whether  
 21 an uncontroversial message conveyed by the defendant in the same manner would have resulted in  
 22 liability in determining whether claims were content based).

23 As currently pled, Plaintiff seeks to hold SJP UNLV liable solely due to SJP UNLV's  
 24 viewpoint on a matter of public concern. As the First Amendment bars such actions, Plaintiff's claims  
 25

1 against SJP UNLV must be dismissed.

2 **B. Plaintiff fails to adequately state a viable claim of intentional infliction of**  
3 **emotional distress against SJP UNLV.**

4 “In order to prevail in an IIED claim, a plaintiff must show (1) extreme and outrageous  
5 conduct on the part of the defendant; (2) intent to cause emotional distress or reckless disregard for  
6 causing emotional distress; (3) that the plaintiff actually suffered extreme or severe emotional  
7 distress; and (4) causation.” *Miller v. Jones*, 114 Nev. 1291, 1299-300, 970 P.2d 571, 577 (1998).

8 Here Plaintiff has failed to plead factual allegations giving rise to entitlement for an IIED claim. First,  
9 Plaintiff failed to plead sufficient facts establishing SJP UNLV engaged in “extreme or outrageous”  
10 behavior; all actions ascribed to SJP UNLV in the complaint are typical, legal First Amendment  
11 activities that occur in public across the country. Second, Plaintiff failed to plead any facts  
12 establishing that SJP UNLV intended to cause him emotional distress or recklessly disregard the  
13 possibility that its actions would cause him distress, especially since Plaintiff offers no facts that he  
14 ever came into direct contact with SJP UNLV or its messaging. Finally, Plaintiff failed to plead facts  
15 establishing he suffered extreme or severe emotional distress because he has only alleged general  
16 emotional discomfort.

17 **1. Plaintiff does not adequately allege that SJP UNLV’s actions were**  
18 **“extreme and outrageous.”**

19 An “IIED [claim] requires a showing of conduct that no reasonable person could be expected  
20 to endure.” *Hale v. NV Prop. I, LLC*, No. 22-16274, 2024 U.S. App. LEXIS 6389, at \*3 (9th Cir.  
21 Mar. 18, 2024). “IIED liability does not extend to mere insults, indignities, threats, annoyances, petty  
22 oppressions, or other trivialities.” *Id.*

23 Plaintiff alleges that SJP UNLV called for economic boycotts via social media and nonviolent  
24 protests, petitioned a state-run university to financially divest from a foreign country due to that  
25 country’s military action, and organized protests with other advocacy groups on and off campus

1 where people chanted “From the River to the Sea” and “Long live the intifada.” However, Plaintiff  
 2 does not accuse SJP UNLV of violating any restrictions imposed by UNLV on SJP UNLV’s  
 3 expressive activities or engaging in vandalism or violence. Political advocacy, even on controversial  
 4 topics, conducted in a peaceful manner in public spaces cannot be considered “extreme and  
 5 outrageous” without banning this protected activity entirely from public view. *See Ortberg v.*  
 6 *Goldman Sachs Group*, 64 A.3d 158, 163–64 (D.C. 2013) (in the context of an IIED claim,  
 7 determining that protests consisting of “chanting slogans and vague threats” performed on public  
 8 streets are “part and parcel of the frictions and irritations and clashing of temperaments incident to  
 9 participation in a community life, especially life in a society that recognizes a right to public political  
 10 protest.”). Without more, Plaintiff has failed to plead any “extreme or outrageous” conduct on the  
 11 part of SJP UNLV.

12 **2. Plaintiff does not adequately allege that SJP UNLV intended to cause  
 13 or recklessly disregard the possibility of Plaintiff’s emotional distress.**

14 A plaintiff raising an IIED claim must establish that “the defendant either intended to cause  
 15 the plaintiff emotional distress or demonstrated reckless disregard for the probability of causing  
 16 emotional distress.” *Westbrook v. DTG Operations, Inc.*, No. 2:05-CV-00789-KJD-PAL, 2007 U.S.  
 17 Dist. LEXIS 14653, at \*20 (D. Nev. Feb. 28, 2007).

18 Plaintiff has not alleged that SJP UNLV intended to cause him emotional distress. Plaintiff  
 19 has not alleged that he ever came into contact with SJP UNLV or that SJP UNLV directed any of its  
 20 actions towards him. Plaintiff does not even allege that he actually observed any of SJP UNLV’s  
 21 social media posts or witnessed any of their protests. There is simply nothing in Plaintiff’s complaint  
 22 to support a claim that SJP UNLV subjectively intended to cause Plaintiff emotional distress.

23 Plaintiff has also not sufficiently alleged that SJP UNLV recklessly disregarded the  
 24 probability of causing him distress. Setting aside that Plaintiff has only accused SJP UNLV of  
 25 nonviolent political advocacy, Plaintiff has not even claimed that SJP UNLV was aware of his

1 existence prior to this suit. As SJP UNLV was unaware of Plaintiff during the relevant time period in  
2 the complaint, SJP UNLV could not have been aware that its actions would potentially, let alone  
3 probably, distress him.

4 **3. Plaintiff does not adequately allege he suffered severe or extreme  
5 emotional distress.**

6 To establish that he suffered severe or extreme emotional distress, a plaintiff must offer  
7 "objectively verifiable indicia of the severity of his emotional distress." *See Miller v. Jones*, 114 Nev.  
8 at 1300, 970 P.2d at 577. "Conclusory allegations of 'shock' and extreme anxiety, sleeplessness,  
9 depression, nausea, pain, illness, and discomfort are not enough to meet the standard of severe or  
10 extreme emotional distress." *Soto v. Infinity Hospice Care, LLC*, No. 2:22-cv-00632- BNW, 2023  
11 U.S. Dist. LEXIS 225263, at \*10 (D. Nev. Dec. 19, 2023). Rather, "[t]he stress must be so severe and  
12 of such intensity that no reasonable person could be expected to endure it." *Id.* Merely "citing a list  
13 of physical symptoms" without providing "facts that show these symptoms were of such intensity  
14 that no reasonable person could be expected to endure such stress" is insufficient. *Id.*

15 Additionally, "in cases where emotional distress damages are not secondary to physical  
16 injuries, but rather, precipitate physical symptoms, either a physical impact must have occurred or,  
17 in the absence of a physical impact, proof of serious emotional distress causing physical injury or  
18 illness must be presented." *Coleman*, No. 2:24-cv-00930-APG-MDC, 2025 U.S. Dist. LEXIS 21413,  
19 at \*6-7. "The physical impact requirement may not be satisfied by pleading general physical or  
20 emotional discomfort." *Id.* (quotation omitted).

21 In describing his alleged harm, Plaintiff has only plead that he suffered "great humiliation,  
22 embarrassment, shame, and other pain and suffering." Amend. Cmpl. ¶ 365. These are only general  
23 statements of emotional discomfort and are insufficient to establish severe or extreme emotional  
24 distress. As Plaintiff pled no facts alleging objective indicia of severe and extreme emotional distress  
25 such as changes of behavior or medical treatment related to these feelings, he has inadequately pled

1 an injury remediable by an IIED claim.

2 **C. Plaintiff fails to adequately plead a claim pursuant to 18 USC § 2333(d)(2) of**  
**the ATA against SJP UNLV.**

3 To hold SJP UNLV liable pursuant to 18 USC § 2333(d)(2) of the ATA, Plaintiff must first  
4 show that he has a basis to bring an action pursuant to 18 USC § 2333(a), i.e. that he suffered an  
5 injury caused by an act of international terrorism. *See Twitter, Inc. v. Taamneh*, 598 U.S. 471, 483,  
6 143 S. Ct. 1206, 1218 (2023) (“[T]hose injured by an act of international terrorism can sue the  
7 relevant terrorists directly under § 2333(a)—or they can sue anyone “who aids and abets, by  
8 knowingly providing substantial assistance, or who conspires with the person who committed such  
9 an act of international terrorism” under § 2333(d)(2).” (emphasis added)). Then he must establish that  
10 SJP UNLV “aided and abetted” that specific act of terrorism by knowingly providing substantial  
11 assistance to the terrorist organization that carried out the act. *See id.* at 495 (determining that “a  
12 defendant must have aided and abetted (by knowingly providing substantial assistance) another  
13 person in the commission of the actionable wrong—here, *an act of international terrorism*” to be  
14 held liable under § 2333(d)(2). (emphasis added)). Plaintiff has not adequately pled either part of his  
15 claim.

16 **1. Plaintiff failed to adequately plead that he was injured by an act of**  
**international terrorism.**

17 Before asserting a claim under 18 USC § 2333(d)(2), a plaintiff must satisfy the prerequisites  
18 of 18 USC § 2333(a) by identifying an act of international terrorism and then pleading sufficient  
19 allegations to establishing that act injured his “person, property, or business.” 18 USC § 2333(d)(2)  
20 (authorizing secondary liability “[i]n an action under [18 USC § 2333(a)] for an injury arising from  
21 an act of international terrorism.”); *See Taamneh*, 598 U.S. at 483 (“those injured by an act of  
22 international terrorism can sue [. . .]”).

23 Not every action undertaken by an entity designated as a terrorist organization is an “act of  
24

1 international terrorism”; rather such acts are defined by 18 USC § 2331(1). Such an act necessarily  
 2 (1) involves violence, (2) violates “the criminal laws of the United States or any State”, (3) is made  
 3 with the intent to intimidate or coerce a government or civilian population, and (4) “occurs primarily  
 4 outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of  
 5 the means by which they are accomplished.” 18 USC § 2331(1).

6 Plaintiff first fails in that he has not pled a cognizable injury to his “person, property, or  
 7 business,” let alone one caused an act of international terrorism. The only personal “injury” he has  
 8 pled is a slew of negative emotions due to the allegedly hostile environment on UNLV’s campus. *See*  
 9 Amend. Cmpl. ¶ 365 (listing Plaintiff’s negative emotions such as “great humiliation” and “shame”).  
 10 However, strong emotions in themselves are insufficient to establish a cognizable injury. *See, supra*,  
 11 Section IV.B.3 (discussing Plaintiff’s failure to assert a cognizable injury for his alleged emotional  
 12 distress).

13 The Plaintiff has also failed to identify an act of international terrorism that has directly caused  
 14 him harm. The October 7, 2023, attack by Hamas against Israel is the only act referenced in Plaintiff’s  
 15 complaint could potentially qualify as an “act of international terrorism”. *See* Amend. Cmpl. ¶¶ 153–  
 16 54 (discussing Hamas’s attack on October 7, 2023). However, though he repeatedly references the  
 17 October 7<sup>th</sup> attack in his complaint, Plaintiff never alleges the October 7<sup>th</sup> attack injured his “person,  
 18 property, or business.” *See generally id.* Rather, Plaintiff only alleges he was injured by non-violent  
 19 activities occurring exclusively within the United States such as political advocacy he disagrees with  
 20 and adverse employment decisions. *See, e.g. id.* ¶¶ 365 (alleging that Plaintiff’s emotional distress  
 21 stemmed from the Defendants’ actions, not terrorist activity by Hamas). These actions are, by  
 22 definition, not acts of international terrorism.

23 As Plaintiff has failed to satisfy the requirements set forth in 18 USC § 2333(a), he is barred  
 24 from holding anyone liable under 18 USC § 2333(d)(2).

1  
2       **2. Plaintiff fails to adequately allege that SJP UNLV knowingly aided and**  
3       **abetted any act of international terrorism.**

4       Even if a plaintiff establishes that he was injured by an act of international terrorism as  
5       required by 18 USC §2333(a), 18 USC § 2333(d)(2) still requires the plaintiff to also show that the  
6       defendants “aided and abetted the act of international terrorism that injured [him].” *Twitter, Inc. v.*  
7       *Taamneh*, 598 U.S. 471, 497, 143 S. Ct. 1206, 1225 (2023). Furthermore, to satisfy the “aiding and  
8       abetting” requirement, plaintiff must show that the defendant was “generally aware of his role as part  
9       of an overall illegal or tortious activity at the time that he provides the assistance” and “knowingly  
10       and substantially assist[ed] the principal violation.” *Leisrael v. Educ. for A Just Peace in the Middle*  
11        $E.$ , 460 U.S. App. D.C. 490, 499, 66 F.4th 1007, 1016 (2023).

12       The only potential act of international terrorism identified in Plaintiff’s complaint occurred  
13       on October 7, 2023, before any of the alleged actions taken by SJP UNLV in Plaintiff’s complaint.  
14       SJP UNLV’s protests, petitions, and social media posts cited in Plaintiff’s complaint were all a  
15       response to Israel’s military actions in Gaza following the October 7<sup>th</sup> attack. As such, Plaintiff fails  
16       to identify any action SJP UNLV took to aid and abet the sole act of international terrorism identified  
17       in his complaint.

18       Plaintiff also fails to adequately plead SJP UNLV knowingly supported Hamas in doing  
19       anything, act of terrorism or otherwise. Setting aside his unsupported conclusions, Plaintiff has pled  
20       no facts establishing any communication between SJP UNLV and Hamas or vice versa. As laid out  
21       in Plaintiff’s factual allegations, the only relevant organizations that SJP UNLV had contact with  
22       either in person or via social media during the relevant period were (1) NSJP, (2) UNLV  
23       administration, and (3) protest organizations located here in Nevada. While Plaintiff makes broad  
24       claims that all Defendants are “aware” that their actions support Hamas based upon statements  
25       Plaintiff attributes to NSJP, *see, e.g.* Amend. Cmpl. ¶¶ 259, he offers no concrete allegations, in the

1 form of communications, transactions, or even statements by SJP UNLV, to support the conclusion  
2 that SJP UNLV knowingly worked on Hamas's behalf. Instead, Plaintiff appears to suggest that SJP  
3 UNLV's political advocacy criticizing and challenging Israel's military action, the very content of  
4 SJP UNLV's protected speech, is unlawful because somehow assists Hamas. This cannot be sufficient  
5 to establish a claim under the ATA against SJP UNLV; to find otherwise would place the ATA in  
6 direct conflict with the First Amendment.

7 Plaintiff fails to offer any facts that SJP UNLV undertook any action to aid and abet an act of  
8 international terrorism. He also fails to offer concrete factual allegations that SJP UNLV knowingly  
9 had any connection at all to Hamas. For these reasons, among others, his ATA claim against SJP  
10 UNLV must be dismissed.

## 11 CONCLUSION

12 Plaintiff has not pled sufficient factual allegations to support either of his claims against SJP  
13 UNLV. Plaintiff has not identified an act of international terrorism that has caused him harm, nor has  
14 he alleged that SJP UNLV aided and abetted such an act. Plaintiff has failed to plead factual  
15 allegations necessary to show that SJP UNLV engaged in extreme and outrageous conduct, it intended  
16 to cause him emotional distress, or that he actually suffered severe and extreme emotional distress,  
17 which are all necessary to assert a valid claim for intentional infliction of emotional distress.

18 While these reasons are by themselves sufficient to justify dismissing Plaintiff's claims, it is  
19 perhaps most important to recognize that Plaintiff's action against SJP UNLV must be dismissed  
20 because it is unconstitutional. Plaintiff asks this Court to punish SJP UNLV because SJP UNLV has  
21 spoken out about a matter of public concern. The war in Gaza has killed thousands of people and has  
22 polarized the American public; Plaintiff and SJP UNLV clearly sit at opposing poles. Plaintiff now  
23 sues SJP UNLV not because SJP UNLV has advocated in a way that violates the law but because  
24 Plaintiff finds SJP UNLV's message itself repugnant. To ensure open and public dialogue and debate

1 about issues that are important but controversial, the First Amendment necessarily bans such efforts.  
2 Defendant SJP UNLV respectfully requests that this Court dismiss all of Plaintiff's claims against it  
3 with prejudice.

4 **ACLU OF NEVADA**

5 */s/ Christopher Peterson* \_\_\_\_\_  
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## **CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing **Defendant Students for Justice in Palestine UNLV's Motion to Dismiss** with the Clerk of the Court for the United States District Court of Nevada by using the court's CM/ECF system on March 5, 2025. I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished on all participants by:

- CM/ECF
- Electronic mail; or
- US Mail or Carrier Service

/s/ Suzanne Lara  
An employee of ACLU of Nevada